IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 1516 of 2007
Date of Decision: 20.3.2007

Hari Shanker and another ...Petitioners

Versus

Jagdish Chand and another ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri R.S. Sihota, Senior Advocate, with
Shri S.S. Kaliramna, Advocate, for the petitioners.

HEMANT GUPTA, J.

The plaintiffs are in revision petition aggrieved against the order passed by the trial Court on 12.8.2006, whereby an application dated 11.6.2001 for recall of a witness, was declined.

One Lelay son of Sarwan, the attesting witness of the Will dated 9.6.1997, was examined as PW1 by the plaintiffs as their witness on 4.10.2000. The plaintiffs moved an application for recall of the said witness as necessary questions could not be asked to the witnesses due to mistake of the counsel. It was also pointed out that the scribe of the Will died on 6.3.2001 and therefore, there is no other mode of proof of the Will except by recall of the witness.

Once, the plaintiffs have examined the witness in support of the Will dated 9.6.1997, it is not open to the plaintiffs to recall the said witness only for the reason that important questions regarding Will could not be asked. It was incumbent upon the plaintiffs to put all questions relevant and arising in the suit to the witness. Having failed to do so at the

relevant stage, merely on account of death of scribe of the Will subsequently, would not be a sufficient ground to recall the witness.

Consequently, I do not find any patent illegality or irregularity in the impugned order, which may warrant interference by this Court in exercise of its revisional jurisdiction.

Hence, the present revision petition is dismissed.

20-03-2007 (HEMANT GUPTA)
ds JUDGE